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8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA
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11 MARQUISE DeANGELO LOFTIS,
12 Plaintiff
13 v.
14 S. MONTES, et al.,
15 Defendants.
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Case No. 2:18-cv-4769-JFW (GJS)

**ORDER ACCEPTING FINDINGS
AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE
JUDGE**

17 Pursuant to 28 U.S.C. § 636, the Court has reviewed the Complaint, all
18 pleadings, motions, and other documents filed in this action, including the Report
19 and Recommendation of the assigned United States Magistrate Judge. The deadline
20 to file Objections to the Report has passed, and no Objections have been filed with
21 the Court.¹

22 Accordingly, **IT IS ORDERED** that:
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26 ¹ In lieu of objections, Plaintiff prematurely submitted his proposed Second
27 Amended Complaint. Despite receiving Plaintiff's SAC on August 1, 2019, the
28 Court has withheld docketing Plaintiff's pleading until the Magistrate's report and
recommendation is accepted. The Court will docket Plaintiff's Second Amended
Complaint simultaneously with this Order.

1 (1) The Magistrate Judge's Report and Recommendation is approved and
2 accepted.

3 (2) Defendants' Motion to Dismiss is DENIED as to:

- 4 a) Plaintiff's First Amendment retaliation claim against Defendant
5 Montes based on the PM medication release incident;
6 b) Defendants' request for dismissal based on qualified immunity,
7 without prejudice.

8 (3) Defendants' Motion to Dismiss is GRANTED as follows:

- 9 c) Plaintiff's retaliation claim against Defendant Montes based on the
10 shower incident is DISMISSED with prejudice and without leave to
11 amend;
12 d) Plaintiff's retaliation claim against Defendant Fuentes based on the
13 shower incident is DISMISSED with prejudice and without leave to
14 amend; and
15 e) Plaintiff's retaliation claim against Defendant Fuentes based on the
16 PM medication release incident is DISMISSED with leave to
17 amend.

18 (4) Plaintiff's Second Amended Complaint submitted on August 1, 2019
19 shall be docketed as the operative complaint;

20 (5) Within 30 days of this Order, Defendants shall file and serve an
21 Answer to the Second Amended Complaint.

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23 DATE: August 13, 2019

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26 JOHN F. WALTER
27 UNITED STATES DISTRICT JUDGE
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